

House Bill 1448 (AS PASSED HOUSE AND SENATE)

By: Representative Fludd of the 66<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act to repeal and replace the charter of the Town of Tyrone in Fayette County,  
2 approved April 17, 1975 (Ga. L. 1975, p. 3876), as amended, so as to change certain  
3 provisions regarding the charter; to change the provisions relating to the specific powers of  
4 the Town of Tyrone; to provide for matters related to the governing of the Town of Tyrone;  
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 An Act to repeal and replace the Charter of the Town of Tyrone, approved April 17, 1975  
9 (Ga. L. 1975, p. 3876), as amended, is amended by striking subsection (a) of Section 1.103  
10 and inserting the following:

11 "(a) The boundaries of the Town of Tyrone shall be those existing on the effective date of  
12 this charter with such alterations as may be made from time to time in the manner provided  
13 by law. The current boundaries of the Town of Tyrone, at all times, shall be shown on a  
14 map, a written description, or any combination thereof, to be retained permanently in the  
15 office of the town clerk and to be designated as the case may be: 'Map (or Description) of  
16 the Corporate Limits of the Town of Tyrone, Georgia.' Alterations in these boundaries  
17 shall be indicated by appropriate entries upon or additions to such map or description.  
18 Such entries or additions shall be made under the direction of the mayor. Photographic,  
19 typed, or other copies of such map or description certified by the mayor shall be admitted  
20 in evidence in all courts and shall have the same force and effect as with the original map  
21 or description."

22 **SECTION 2.**

23 Said Act is further amended by striking subsection (g) of Section 1.104 and inserting in its  
24 place the following:

“(g) To condemn property, inside or outside the corporate limits of the town, for present or future use and for any corporate purpose deemed necessary by the governing authority, under Code Sections 22-1-8 and 22-2-21 of the O.C.G.A., Article 2 of Chapter 2 of Title 22 of the O.C.G.A., or under other applicable laws, as are or may be enacted.”

### SECTION 3.

Said Act is further amended by striking subsection (l) of Section 1.104 and inserting in its place the following:

"(l) To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks, and playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, airports, hospitals, and charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities, and any other public improvements, inside or outside the corporate limits of the town, and to regulate the use thereof, and for such purposes, property may be acquired by condemnation under Title 22 or Title 32 of the O.C.G.A. or other applicable laws, as are or may be enacted."

## SECTION 4.

Said Act is further amended by striking subsection (u) of Section 1.104 and inserting in its place the following:

“(u) To regulate the emission of smoke, dust, sand, or other exhaust which pollutes the air and to prevent the pollution of natural streams which flow within the corporate limits of the town.”

## SECTION 5.

Said Act is further amended by striking subsection (ff) of Section 1.104 and inserting in its place the following:

"(ff) To provide that persons given jail sentences in the municipal court shall work out such sentence in any public works or services or on the streets, roads, drains, and squares in the town; or to provide for commitment of such persons to any county work camp or jail by agreement with the appropriate county officials."

## SECTION 6.

Said Act is further amended by striking subsection (a) of Section 2.101 and inserting in its place the following:

"(a) The legislative authority of the Town of Tyrone shall be vested in a town council to be composed of a mayor and four councilmembers. The mayor and councilmembers shall be elected in the manner provided by Article V of this charter. For the purpose of electing councilmembers, positions on the council shall be numbered as Posts 1 through 4. The terms of office of the mayor and councilmembers shall be four years and until their successors are elected and qualified."

## SECTION 7.

Said Act is further amended by striking Section 2.106 of said Act and inserting in its place the following:

"SECTION 2.106.

Inquiries and investigations.

Following the adoption of an authorizing resolution, the mayor and council may make inquiries and investigations into the affairs of the town and the conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be punished as provided by ordinance."

## SECTION 8.

Said Act is further amended by adding a new section to read as follows:

"SECTION 2.108.

Manner of election.

All elections for town offices shall be nonpartisan. Political parties shall not conduct primaries for town offices and all names of candidates for town offices shall be listed without party designations. The person receiving a plurality of the votes cast shall be elected."

## SECTION 9.

Said Act is further amended by striking subsection (a) of Section 2.201 and inserting in its place the following:

“(a) During the last meeting of each election year, or as otherwise provided, the council shall hold a special meeting at which the oath of office shall be administered to the mayor-elect and newly elected councilmembers as follows:

'I do solemnly swear (or affirm) that I will faithfully perform all the duties of (mayor or councilmember, as the case may be) of the town; that I am not the holder of any

unaccounted for public money due this state or any political subdivision or authority thereof; that I am not a holder of any office of trust under the government of the United States, any other state, or any foreign state which I am by the laws of the State of Georgia prohibited from holding; that I am not an officer or employee of the Town of Tyrone, Georgia; that I am otherwise qualified to hold this office according to the Constitution and laws of Georgia; that I am a resident of the place required by law; and that I will support the Constitution of the United States and the State of Georgia."

#### **SECTION 10.**

Said Act is further amended by striking Section 2.204 and inserting in its place the following:

#### **"SECTION 2.204.**

#### **Quorum; voting.**

The mayor and three councilmembers shall constitute a quorum and shall be authorized to transact business of the council. Voting on the adoption of ordinances shall be taken by voice vote and the ayes and nays shall be recorded in the journal, but any member of the council shall have the right to request a roll-call vote. A minimum of three votes shall be required for the adoption of any ordinance, resolution, or motion. The mayor shall vote only in the event of a tie vote."

#### **SECTION 11.**

Said Act is further amended by striking subsection (b) of Section 2.205 and inserting in its place the following:

"(b) An ordinance may be introduced by any member of the council and read at a regular or special meeting of the council. Ordinances shall be considered and adopted or rejected by the council in accordance with the rules which it shall establish. The clerk shall read the heading of the ordinance, shall distribute a copy to the mayor, and shall file a copy in the office of the clerk."

#### **SECTION 12.**

Said Act is further amended by striking subsection (a) of Section 2.206 and inserting in its place the following:

"(a) The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally excepted that (1) the requirements of Section 2.207 of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adoption

ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.207 of this charter."

#### **SECTION 13.**

Said Act is further amended by striking subsection (a) of Section 2.207 and inserting in its place the following:

"(a) The clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances adopted by the council. Every ordinance shall be signed by the mayor as a matter of course after final adoption and stamped with the town seal. Each ordinance shall also be approved as to form by the town attorney and shall be signed by the town attorney to indicate such approval."

#### **SECTION 14.**

Said Act is further amended by striking Section 3.102 and inserting in its place the following:

##### **"SECTION 3.102.**

Terms; qualifications; compensation.

The mayor shall be elected for a term of four years and until his or her successor is elected and qualified. The mayor shall have attained the age of 21 years prior to the date of the election and shall have been a resident of the Town of Tyrone for a period of at least 12 months immediately preceding his or her election. He or she shall continue to reside in the Town of Tyrone during the period of his or her service. The mayor shall receive such annual salary as shall be fixed by the town council which shall not be reduced during the term for which he or she shall have been appointed or elected. The mayor shall also receive compensation for any actual and necessary expenses incurred in the performance of his or her duties of office as provided in Section 2.104."

#### **SECTION 15.**

Said Act is further amended by striking paragraph (4) of subsection (a) of Section 3.103 and inserting in its place the following:

"(4) Prepare and submit to the council a recommended annual operating budget and recommended capital improvement program;"

**SECTION 16.**

Said Act is further amended by striking Section 3.104 of said Act and inserting in its place the following:

**"SECTION 3.104.****Mayor pro tempore.**

During the absence or disability of the mayor for any cause, the mayor pro tempore, or in his or her absence or disability for any reason, any one of the councilmembers chosen by the council, shall be clothed with all the rights and privileges of the mayor and shall perform the duties of the office of the mayor as long as such absence or disability shall continue. Notwithstanding any provisions in this charter to the contrary, in the event that it is necessary for the mayor pro tempore to assume the role of mayor in order to preside over meetings of the council, the mayor pro tempore shall be entitled to vote."

**SECTION 17.**

Said Act is further amended by striking Section 3.203 of said Act and inserting in its place the following:

**"SECTION 3.203.****Town attorney.**

The mayor shall appoint with approval of council a town attorney for a term of one year. The town attorney shall be responsible for representing and defending the town in all litigation in which the town is part; shall advise the council, mayor, and other officers and employees of the town concerning legal aspects of the town's affairs; and shall approve as to form and legality all contracts, deeds, bonds, ordinances, resolutions, and motions as requested by the mayor or council. The town attorney is not a public official of the town and does not take an oath of office. The town attorney shall at all times be an independent contractor. A law firm, rather than an individual, may be designated as town attorney."

**SECTION 18.**

Said Act is further amended by adding a new section to read as follows:

**"SECTION 3.205.****Town clerk.**

The council shall appoint a town clerk who shall not be a councilmember. The town clerk shall be custodian of the official town seal and town records, maintain town council records

required by this charter, and perform such other duties as may be required by the town council."

### SECTION 19.

Said Act is further amended by striking Section 3.301 and inserting in its place the following:

#### "SECTION 3.301.

#### Personnel policies.

The council shall adopt rules and regulations consistent with this charter concerning personnel policies as may be necessary for adequate and systematic handling of the personnel affairs of the Town of Tyrone. All employees serve at will and may be removed from office at any time unless otherwise provided by ordinance."

### SECTION 20.

Said Act is further amended by striking subsection (a) of Section 4.104 and inserting in its place the following:

"(a) The municipal court shall try and punish crimes against the Town of Tyrone and violation of its ordinances. The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or ten days in jail. Unless a lesser penalty is provided by ordinance, the judge shall have the power to impose fines, costs, and forfeitures for the violation of any law or ordinance, of the Town of Tyrone passed in accordance with this charter, to an amount not to exceed \$1,000.00 for each offense, to imprison offenders for a period of not more than 12 months for each offense, or sentence offenders to labor on the roads and streets or other public works of said town for not more than 12 months for each offense or any one or more of these punishments in the discretion of the judge."

### SECTION 21.

Said Act is further amended by striking subsection (c) of Section 4.104 and inserting in its place the following:

"(c) The municipal court shall have the authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for appearance of persons charged with violations. All cash bonds shall be immediately deposited with the court clerk and not retained by the arresting officer. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, his or her bond shall be forfeited by the judge presiding at such time, and an execution issued thereon

1 by serving the defendant and his or her sureties with a rule nisi, at least two days before a  
2 hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for  
3 security for the appearance of a defendant at trial and if such defendant fails to appear at  
4 the time and placed fixed for trial, the cash so deposited shall be on order of the judge  
5 declared forfeited to the Town of Tyrone or the property so deposited shall have a lien  
6 against it for the value forfeited, which lien shall be enforceable in the same manner and  
7 to the same extent as a lien for town property taxes."

8 **SECTION 22.**

9 Said Act is further amended by striking Section 5.101 and inserting in its place the following:

10 "SECTION 5.101.

11 Applicability of general laws.

12 The procedures and requirements for election of all elected officials of the Town of Tyrone  
13 as to primary, special, or general elections shall be in conformity with the provisions of Title  
14 21 of the O.C.G.A., as now or hereafter amended. The town shall maintain its own system  
15 of registration of electors. The procedure for the registration of electors, preparation of  
16 electors lists, and the maintenance of such lists and system of such registration shall be as is  
17 provided for in subsection (c) of Code Section 21-2-212 of the O.C.G.A.."

18 **SECTION 23.**

19 Said Act is further amended by striking Section 5.102 and inserting in its place the following:

20 "SECTION 5.102.

21 Qualifying; nomination and election of candidates; absentee ballots.

22 Consistent with state law, the council may, by ordinance, prescribe rules and regulations  
23 governing qualifying fees, nomination of candidates, absentee ballots, write-in votes,  
24 challenge of votes, purging of registration lists, and such other rules and regulations as may  
25 be necessary for the conduct of elections in the Town of Tyrone."

26 **SECTION 24.**

27 Said Act is further amended by striking Section 5.103 and inserting in its place the following:

28 "SECTION 5.103.

29 Vacancies.

30 If the office of mayor or any councilmember shall become vacant for any cause whatsoever,  
31 said vacancy in office shall be filled by the majority vote of the remaining members of the



1 council, by appointment, until the next municipal general election for mayor or that post at  
2 which election a successor shall be elected, provided that the vacancy does not exceed 12  
3 months. Should the vacancy period exceed 12 months, then a special election shall be called  
4 to determine the person who shall fill the unexpired term, with said election to be in  
5 compliance with this charter and Titles 21 and 45 of the O.C.G.A. or other applicable laws  
6 as are or may be enacted. In cases of filling more than one vacancy, where the remaining  
7 officials do not constitute a quorum, the requirement of a quorum shall be dispensed with for  
8 the purpose of filling vacancies in accordance with this section only, Section 2.204 of this  
9 charter notwithstanding. The qualifications of candidates shall conform to the applicable  
10 provisions of this charter and Title 21 of the O.C.G.A., as now or hereafter amended."

11 **SECTION 25.**

12 Said Act is further amended by striking Section 6.102 and inserting in its place the following:

13 "SECTION 6.102.

14 Tax levy.

15 The council shall be authorized to levy an ad valorem tax on all real and personal property  
16 within the corporate limits of the town for the purpose of raising revenues to defray the costs  
17 of operating the town government, providing governmental services, building up reserves for  
18 capital improvements, and for any other public purpose as determined by the council in its  
19 discretion. The ad valorem tax shall not exceed 15 mills on each dollar of taxable value. The  
20 council is also authorized to provide for sufficient levy to pay principal and interest on  
21 general obligations."

22 **SECTION 26.**

23 Said Act is further amended by striking Section 6.105 and inserting in its place the following:

24 "SECTION 6.105.

25 Occupational taxes; regulatory fees; excise taxes.

26 The council by ordinance shall have full power to levy such occupation taxes upon those  
27 businesses and practitioners of professions and occupations which have one or more  
28 locations or offices within the corporate limits, as the council may deem expedient for the  
29 public health, safety, benefit, convenience, or advantage of the town; to also levy such  
30 occupation taxes upon those businesses or practitioners of professions and occupations which  
31 have one or more employees or agents who exert substantial efforts within the corporate  
32 limits for the purpose of soliciting business or serving customers and clients or which own  
33 personal or real property which generates income and which is located within the corporate

limits, provided that said business or practitioner does not perform a larger volume of said business or service within the limits of any other local government authorized to levy occupation taxes; to classify businesses, occupations, professions, or callings for the purpose of such taxation in any way which may be lawful; to impose regulatory fees on businesses and practitioners of professions and occupations doing business within the corporate limits; to compel the payment of such taxes or fees by execution or any other lawful manner; and to make laws and regulations necessary or proper to carry out the powers herein conferred and to prescribe penalties for the violation thereof. The council shall have full power and authority to levy an excise tax not prohibited by general law. Such excise tax shall include, but is not limited to, a tax on insurance policies of town residents and a telephone tax."

**SECTION 27.**

Said Act is further amended by striking Section 6.204 of said Act and inserting in its place the following:

**"SECTION 6.204.**

**Revenue bonds.**

Revenue bonds may be issued by the council as provided in Article 3 of Chapter 82 of Title 36 of the O.C.G.A. or as otherwise provided by law."

**SECTION 28.**

Said Act is further amended by striking Section 6.209 and inserting in its place the following:

**"SECTION 6.209.**

**Public hearing.**

After receiving the budget from the mayor, the council shall fix a time and place for a public hearing thereon and shall cause a public notice thereof to be published once in the official town newspaper at least ten days in advance of the date of the hearing. Said notice shall be published during the week the proposed budget is submitted by the mayor to the council and shall advise the residents of the town of the availability of the proposed budget and of the date of the public hearing. The public hearing shall be held before the council at the stated time and place, and all persons present shall be given an opportunity to be heard. Said public hearing shall be held at least one week prior to the meeting of the council at which the adoption of the proposed budget shall be considered."

**SECTION 29.**

Said Act is further amended by striking subsection (b) of Section 6.215 and inserting in its place the following:

"(b) The council may sell or convey, or both, any real or personal property owned or held by the town for governmental or other purposes. All sales of municipal property shall be made to the highest responsible bidder, either by sealed bids or by auction after notice has been given. The town shall have the right to reject any and all bids or to cancel any proposed sale or auction. The town shall cause notice to be published once in the official organ of Fayette County or in the official legal organ of the Town of Tyrone, not less than 15 days nor more than 60 days preceding the last day for the receipt of proposals. The legal notice shall include a general description of the property to be sold if the property is personal property or a legal description of the property to be sold if the property is real property. If the sale is by sealed bids, the notice shall also contain an invitation for proposals and shall state the conditions of the proposed sale, the address at which bid blanks and other written materials connected with the proposed sale may be obtained, and the date, time, and place for the opening of the bids. If the sale is by auction, the notice shall also contain the conditions of the proposed sale and shall state the date, time, and place of the proposed sale. Bids received in connection with a sale by sealed bidding shall be opened in public at the time and place stated in the legal notice. All such bids shall be retained and kept available for public inspection for a period of not less than 60 days from the date on which such bids are opened. Notwithstanding any provisions contained in this subsection to the contrary, the town shall not be required to make sales in the open market, shall not be required to advertise, and shall not be required to accept bids if the property sought to be sold is personal property with an estimated value of \$500.00 or less or is a lot from any municipal cemetery which the town at any time may hold. Nothing in this subsection shall prevent the town from trading or exchanging real property belonging to the town for other real property where the property so acquired by exchange shall be of equal or greater value than the property previously belonging to the town; provided, however, that within six weeks preceding the closing of any such proposed exchange of real property, a notice of the proposed exchange of real property shall be published in the official organ of the town once a week for four weeks. The value of both the property belonging to the town and that to be acquired through the exchange shall be determined by appraisals, and the value so determined shall be approved by the town council."

**SECTION 30.**

Said Act is further amended by striking subsection (d) of Section 6.215 and inserting in its place the following:

1 "(d) Whenever in opening, extending, or widening any street, avenue, alley, or public place  
2 of the town, a small parcel or tract of land is cut off or separated by such work from a  
3 larger tract or boundary of land owned by the town, the council may authorize the mayor  
4 to execute and deliver in the name of the town a deed conveying said cut-off or separated  
5 parcel or tract of land to an abutting or adjoining property owner or owners in exchange for  
6 rights of way of said street, avenue, alley, or public place or in settlement of any alleged  
7 damages sustained by said abutting or adjoining property owner. All deeds and  
8 conveyances heretofore and hereafter so executed and delivered shall convey all title and  
9 interest the town has in such property, notwithstanding the fact that no public sale after  
10 advertisement was or is hereafter made. Notwithstanding any provisions contained in this  
11 subsection to the contrary, the town shall comply with any disposition of property  
12 requirements imposed by Title 36 of the O.C.G.A. and those requirements otherwise  
13 imposed by this charter."

#### 14 **SECTION 31.**

15 Said Act is further amended by striking Section 7.105 and inserting in its place the following:

#### 16 "SECTION 7.105.

#### 17 Eminent domain.

18 The council is hereby empowered to acquire, construct, build, operate, and maintain public  
19 ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries,  
20 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports,  
21 hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional,  
22 penal, and any other public improvements inside or outside the town and to regulate the use  
23 thereof and, for such purposes, property may be taken under Title 22 and Title 32 of the  
24 O.C.G.A., subject to such amendments as shall be enacted, or any other applicable laws, as  
25 are now or may hereafter be enacted."

#### 26 **SECTION 32.**

27 Said Act is further amended by striking Section 7.106 and inserting in its place the following:

#### 28 "SECTION 7.106.

#### 29 Power to regulate.

30 The council shall have the power and authority to provide by ordinance for the registration  
31 of and imposition of regulatory fees on any trade, business, occupation, vocation, profession,  
32 or any and every other undertaking pursued for the purpose of personal gain or profit of  
33 whatever nature engaged in or carried on within the limits of the Town of Tyrone, regardless

1 whether or not the subject has an office or establishment within said town. The council shall  
2 be authorized to fix the amount, terms, and manner of registering such businesses,  
3 professions, or occupations and imposing such fees, provided that this authority is subject  
4 to the Constitutions and laws of the United States and the State of Georgia. This power is  
5 conferred for the purpose of regulation under the police powers of the town and for the  
6 purpose of raising revenue for the operation of the town government through the imposition  
7 of a tax or fee on the privilege of operating within the town. This authority extends over  
8 individuals, partnerships, associations, and corporations and their agents and any other legal  
9 entity capable of transacting business."

10 **SECTION 33.**

11 All laws and parts of laws in conflict with this Act are repealed.